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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Concluding observations on the report submitted by Bosnia and Herzegovina under article 29 (1) of the Convention

Addendum

Information received from Bosnia and Herzegovina on follow-up to the concluding observations*

[Date received: 20 October 2017]

* The present document is being issued without formal editing.

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The Information on the Implementation of Recommendations 18, 20 and 32 of the concluding observations

1. The Committee on Enforced Disappearances considered the initial report submitted by Bosnia and Herzegovina under article 29 of the International Convention for the Protection of All Persons from Enforced Disappearance in Bosnia and Herzegovina and adopted concluding observations.

2. In the concluding observations, the Committee requests the submission of relevant information on the implementation of its recommendations 18, 20 and 32 by 14 October 2017.

3. At the 102nd session held on 23 May 2017, the Council of Ministers of Bosnia and Herzegovina noted the Information on concluding observations adopted by the Committee on Enforced Disappearances (CED) after consideration of the Initial Report on the Application of the International Convention for the Protection of All Persons from Enforced Disappearance in Bosnia and Herzegovina, with a view of fulfilling the obligations of Bosnia and Herzegovina.

4. On that occasion, the Council of Ministers of Bosnia and Herzegovina tasked the Ministry of Human Rights and Refugees of Bosnia and Herzegovina to transmit the concluding observations of the Committee on Enforced Disappearances to the relevant institutions in Bosnia and Herzegovina to which they relate, to hold meetings of the Inter-Agency Working Group that was in charge of drafting the Initial Report of Bosnia and Herzegovina on the Implementation of the International Convention for the Protection of All Persons from Enforced Disappearance in Bosnia and Herzegovina and to present concluding observations and recommendations with a view to implementing them.

5. There were two meetings of the Inter-Agency Working Group that produced the Initial Report of Bosnia and Herzegovina and was responsible for coordinating the implementation of the obligations under the recommendations by the Committee on Enforced Disappearances. The concluding observations of the Committee were submitted to the relevant institutions in Bosnia and Herzegovina to which they relate.

6. For the purpose of compiling this Information on the Implementation of Recommendations 18, 20 and 32 by the Committee on Enforced Disappearances, the Prosecutor's Office of Bosnia and Herzegovina, the State Investigation and Protection Agency of Bosnia and Herzegovina and the Missing Persons Institution of Bosnia and Herzegovina were requested to provide information on the basis of which the present Information about Implementation of recommendations 18, 20 and 32 was put together as follows:

Paragraph 18

The Committee recommends that the State party continue its efforts to establish the truth and determine the fate and whereabouts of all the individuals who have been reported as missing and, in the event of death, the identification of their remains. It recommends, in particular, that the State party:

(a) Provide the Prosecutor's Office of Bosnia and Herzegovina with adequate human and financial resources and appoint additional forensic experts to ensure that exhumations and identifications takes place as swiftly as possible upon the location of mortal remains;

(b) Expedite the process of verifying data in the Central Record of Missing Persons.

7. The Prosecutor's Office of Bosnia and Herzegovina provided their observations on recommendation 18 by the Committee on Enforced Disappearances.

8. With regard to human resources in the Prosecutor's Office of Bosnia and Herzegovina, through its 2018 regular budget, the Prosecutor's Office of Bosnia and Herzegovina has received the necessary funds for salaries and benefits of all employees, bearing in mind the supplementary letter of intent of the International Monetary Fund containing a provision that the beneficiaries will not employ any new staff members, for which reason the Prosecutor's Office of Bosnia and Herzegovina will not employ any new staff members to be paid from regular budget. This conclusion was repeated and confirmed at a meeting of the Prosecutor's Office of Bosnia and Herzegovina with the Ministry of Finance and Treasury of Bosnia and Herzegovina which served as consultations on the 2018 budget.

9. Through the IPA 2013 Project — Enhancing War Crime Case Processing in Bosnia and Herzegovina, in 2018, funds of BAM 1,148,548.19 were provided to the Prosecutor's Office of Bosnia and Herzegovina for employment of 28 staff members of various professions to be dedicated exclusively to war crimes cases. We note that the first tranche, which is dedicated to 2017, has been transferred to the Prosecutor's Office of Bosnia and Herzegovina and is being spent and the other is expected in January 2018.

10. As far as financial resources are concerned, as requested by the Prosecutor's Office of Bosnia and Herzegovina, the Ministry of Finance and Treasury of Bosnia and Herzegovina has approved for the exhumation expenses in 2018 even BAM 600,000 more than in 2017. The Prosecutor's Office of Bosnia and Herzegovina states that all current liabilities are paid from 2017 regular budget and the IPA 2013 project — Enhancing War Crime Case Processing in Bosnia and Herzegovina can allocate BAM 167,332.99 for these purposes.

11. **The Prosecutor's Office of Bosnia and Herzegovina specifically states that the additional amount of BAM 600,000 could cover all the planned costs in all budget positions aimed at having exhumations and identification carried out as soon as possible after finding mortal remains.**

A. The issue of appointment of additional forensic experts to ensure that exhumations and identifications takes place as swiftly as possible upon the location of mortal remains is an outstanding issue and, in the opinion of the Prosecutor's Office of Bosnia and Herzegovina, special attention should be paid to this issue in the forthcoming period

12. In Bosnia and Herzegovina there are different approaches to the organization and institutionalization of forensic activity. There is an expert institution in the Republika Srpska — the Forensic Medicine Institute, in which several forensic experts work. In the Federation of Bosnia and Herzegovina, four forensic experts are hired on a case-by-case basis, as they have their employment contracts with other institutions. This issue becomes more difficult year after year.

13. Training of new staff is urgently needed and indispensable so that this activity can be carried out faster and more efficiently and that some complex expert opinions can be obtained without going for them to other countries.

14. The issue of the lack of forensic experts to meet needs of the Federation of Bosnia and Herzegovina and the issuer of establishment of the Forensic Medicine Institute were re-launched at the meeting of the Inter-working Group held on 5 September 2017.

15. To put it chronologically, the initiative for the establishment of the Forensic Medicine Institute to meet needs of Bosnia and Herzegovina was launched in 2009 by the International Commission on Missing Persons (ICMP) and re-launched in 2014.

16. With this end in view, in 2014, ICMP held a series of meetings with associations of families of missing persons, the Ministries of Justice, Health and Finance, the Chairman of the BiH Council of Ministers and the Federation Chief Prosecutor supporting the idea of establishing the Forensic Medicine Institute of the Federation of Bosnia and Herzegovina, which would achieve a balance in the provision of expert services in forensic medicine in

Bosnia and Herzegovina and enable access to European funds intended for the development of this activity.

17. On 5 June 2014, the Government of the Federation of Bosnia and Herzegovina adopted an initiative for the establishment of the Forensic Medicine Institute and sent Amendments to the Law on Federation Ministries and Other Administrative Bodies to the Parliament for passage in order to provide legal grounds for establishing this institution.

18. The initiative for the establishment of the Forensic Medicine Institute to meet needs of the Federation of Bosnia and Herzegovina has not been actualized.

19. The Inter-Agency Working Group responsible for coordinating the implementation of the obligations under recommendations by the Committee on Enforced Disappearance has the information that in 2016, with the support of the Federation Minister of Justice, an expert working group was established, which made the Paper on the Establishment of the Forensic Medicine Institute of the Federation of Bosnia and Herzegovina. This initiative is supported by ICMP and other members of the international community in Bosnia and Herzegovina, including the Delegation of the European Union, the Embassy of Switzerland, Sweden, USA, UNDP and others, in addition to the Federation Ministry of Justice.

20. Informing about this recommendation by the Committee on Enforced Disappearance, the State Investigation and Protection Agency of Bosnia and Herzegovina provided information regarding the establishment of the "TERRA" Operational Team, which started operation on 18 January 2016. The Team consists of police officers of the Sectors for Investigation of War Crimes and Criminal Offenses Punishable under International Humanitarian Law of Banja Luka, Mostar, Sarajevo and Tuzla Regional Offices.

21. In accordance with the law, the Operation Team is acting by orders of the Prosecutor's Office of Bosnia and Herzegovina, conducts operational and investigative actions, conducts activities for finding missing persons and finds locations where there are massive or individual graves of missing persons. In the process of finding missing persons, apart from cooperating with the Prosecutor's Office of Bosnia and Herzegovina, the Operation Team cooperates with the Missing Persons Institute of Bosnia and Herzegovina and The Hague Tribunal Department in Bosnia and Herzegovina.

B. Verification of missing persons

22. With regard to the verification of missing persons, all cases with active dossiers (i.e. dossiers relating to persons still traced) are verified. There are 7,017 such dossiers.

23. As of today, the total number of verified persons is 23,482.

24. In the year 2017, 1,982 cases (dossiers) are verified as of today.

Paragraph 20

The Committee recommends that the State party provide the Missing Persons Institute with the financial, human and technological resources necessary to adequately fulfil its mandate and expedite the appointment of the members of the Board of Directors.

25. When it comes to the *appointment of members of the Steering Board*, at the 77th meeting held on 13 October 2016, the Council of Ministers of Bosnia and Herzegovina adopted the Decision on the Establishment of the Temporary Steering Board of the Missing Persons Institute of Bosnia and Herzegovina. The Temporary Steering Board has all the responsibilities and obligations in accordance with the law and the international agreement on the establishment of the Institute and is appointed for a period until the members of the Steering Committee selected in an open competition have been appointed.

26. Regarding the financial, human and technological resources of the Missing Persons Institute of Bosnia and Herzegovina, they are absolutely inadequate given the mandate and mission of the Missing Persons Institute of Bosnia and Herzegovina.

27. When it comes to financial and technological resources, the Missing Persons Institute of Bosnia and Herzegovina has not been provided with sufficient financial resources for procurement of adequate equipment and creation of conditions for a more efficient operation of the Missing Persons Institute of Bosnia and Herzegovina.

28. When it comes to human resources, the Missing Persons Institute of Bosnia and Herzegovina needs to be significantly strengthened. The insufficient number of staff (18 investigators and 5 heads of field offices) is searching for 7,011 missing persons, so each of them searches for 304 missing persons on average.

29. Within the approved upper limits of 2018 budget of the Missing Persons Institute of Bosnia and Herzegovina, the Ministry of Finance and Treasury of Bosnia and Herzegovina appropriated to the Missing Persons Institute of Bosnia and Herzegovina an amount of BAM 185,000.

30. In order to strengthen the functional and technical capacities of the Missing Persons Institute of Bosnia and Herzegovina, in line with the June 2010 recommendations by the Committee on Enforced Disappearance, which were repeated in the October 2016 Report by the Committee on Enforced Disappearance, in the 2018 Request for Appropriation (Annex to the Request for Budget of the Institute), the management of the Missing Persons Institute of Bosnia and Herzegovina requested from the Ministry of Finance and Treasury of Bosnia and Herzegovina BAM 312,000 for procurement of the following equipment:

- BAM 275,000.00 for procurement of specialized official vehicles required by the Missing Persons Institute of Bosnia and Herzegovina in accordance with the Rulebook on Specialized Official Vehicles at the Institute for Missing Persons of BiH;
- BAM 37,000.00 for procurement of IT equipment at the headquarters of the Missing Persons Institute of Bosnia and Herzegovina. IT equipment: computers, scanners, laptops, printers, fax machines, telephones, scanners, audio-visual equipment, etc. are torn, broken, incompatible, subject to frequent malfunctions. The average age of computer and other equipment is 9.5 years.

31. Regarding human resources, the management of the Missing Persons Institute of Bosnia and Herzegovina will propose a new Rulebook on Internal Organization and Job Descriptions and Work Tasks in 2018 in order to build staff capacities of the Missing Persons Institute of Bosnia and Herzegovina and to implement the recommendations by the Committee on Enforced Disappearance.

Paragraph 32

The Committee recommends that the State party expedite the establishment of the national preventive mechanism, make it fully operational rapidly and provide it with sufficient human and financial resources.

32. Activities to amend the Law on the Ombudsman for Human Rights of Bosnia and Herzegovina began in May 2017 in line with an initiative of the Ombudsman for Human Rights of Bosnia and Herzegovina.

33. The amendments to the Law on the Ombudsman for Human Rights of Bosnia and Herzegovina also include new provisions defining the role of the Ombudsman Institution for Human Rights as a preventative mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly UN, on 18 December 2002, in Resolution A/RES/57/199, which entered into force on 22 June 2006.

34. The proposed provision should ensure the fulfilment of the obligation under Article 17 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Bosnia and Herzegovina ratified in October 2008, undertaking an obligation to establish a preventive mechanism within one year of ratification date, which has expired. The complaints received by the Institution from people with restricted freedom of movement, whose number increases each year, are also a clear

indicator of the need for more active prevention of human rights violations in this area and the need to establish a preventive mechanism.

35. The Ombudsman Institution for Human Rights has status "A" assigned to it by the International Coordinating Council of National Human Rights Institutions (ICC), with the re-accreditation of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina expected in November 2017.

36. Bearing in mind the foregoing, it is proposed that, following consideration of the Information on the Implementation of Recommendations 18, 20 and 32 of the Concluding observations by the Committee on Enforced Disappearance, the Council of Ministers of Bosnia and Herzegovina should adopt the following.

Conclusions

37. **The Information on the Implementation of Recommendations 18, 20 and 32 of the Concluding Observations by the Committee on Enforced Disappearance is adopted.**

38. **The Ministry of Human Rights and Refugees of Bosnia and Herzegovina is mandated to forward the Information on the Implementation of Recommendations 18, 20 and 32 of the Concluding Observations by the Committee on Enforced Disappearance to the Committee on Enforced Disappearance by 14 October 2017.**